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STATE OF WASHINGTON

DEPARTMENT OF CORRECTIONS

P.O. Box 41100 • Olympia, Washington 98504-1100 • (206) 753-1573
FAX Number (206) 586-3676 SCAN 321-3676

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AUG - 5 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

July 28, 1994

The Honorable Reed E. Hundt, Chairman
Federal Communications Commission
1919 M Street, N.W.
Washington D.C. 20554

RE: Billed Party Preference: CC Docket 92-77

Dear Chairman Hundt:

As previously stated in a letter to Chairman Sikes, dated July 28, 1992, I request the Federal Communications Commission specifically exempt inmate telephone services from Billed Party Preference, regardless of what other decisions may be decided in this rulemaking.

There is significant Federal precedent to support excluding inmate telephone services from Billed Party Preference. It was specifically excluded from the Telephone Operator Consumer Services Improvement Act of 1990 (TOCSIA) passed by Congress.

Telephone services in the correctional environment are unique in that institutions must be able to manage inmate telephone services in order to maintain security, prevent criminal activity such as telephone harassment, fraud, and abuse of the telephone system in providing security and safety to staff, inmates, and the public. I respectfully request the FCC continue to recognize the difference.

In addition, the loss of commissions for the Inmate Welfare Fund which are used only for the inmates, would severely curtail the level of services currently being provided to them.

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The Honorable Reed E. Hundt
Page 2
July 28, 1994

Please refer to the enclosed comments regarding this matter.

Sincerely,

A handwritten signature in cursive script that reads "Margaret Vonheeder".

Margaret Vonheeder, Director
Division of Management & Budget

Enclosure

cc: The Honorable James H. Quello
The Honorable Andrew C. Barrett
The Honorable Rachelle B. Chong
The Honorable Susan Ness

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AUG - 5 1994

Before the

FEDERAL COMMUNICATIONS COMMISSION
Washington D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
) CC Docket No. 92-77
Billed Party Preference)
For 0=InterLATA Calls)

COMMENTS OF THE

DEPARTMENT OF CORRECTIONS, STATE OF WASHINGTON

Comes now, the Department of Corrections ("DOC"), State of Washington by its Director, Division of Management and Budget, Margaret Vonheeder, and respectfully submits these comments in response to the Further Notice of Proposed Rulemaking issued by the Federal Communications Commission ("Commission") in the above captioned rulemaking matter.

1. The Department of Corrections is a statutory agency of the state of Washington, existing pursuant to the Revised Code of Washington ("RCW") 72.09 and having charge of the state correctional institutions (prisons, pre-Release and work training release facilities) and presently having custody of approximately 10,600 incarcerated felons.

2. The Department of Corrections has an interest in this rulemaking proceeding because of its potential impact upon the inmate collect call only (0+) telephone services operated at various DOC institutions by increasing the possibility for criminal activity committed and abusive calls made via telephone, the inability to fund the fraud control technology now being supplied, and the hazards of increased tensions, frustrations and violence within the facilities as a result of not having the resources now being supplied by the contractor.

3. The Department of Corrections competitively bid a contract to have telephone companies/aggregators supply collect call only (0+) telephone services for inmate use. At present, DOC's contractor provides approximately 940 telephone sets, wire/cable, monitoring and recording equipment, and telephone booths when required for thirteen (13) institutions, two (2) pre-release facilities and fourteen (14) work/training release facilities. The contractor cannot charge rates higher than the standard of U.S. West and ATT with no surcharge to the called party or DOC.

4. Inmates cannot originate sent-paid calls, nor can they receive telephone calls. State law (RCW 9.73.095 (2)) states that ("All personal calls made by inmates shall be collect calls only. The calls will be "operator announcement" type calls. The operator shall notify the receiver of the call that the call is coming from a prison inmate, and that it will be recorded and may be monitored"). Operators are trained to follow DOC procedures including the "operator announcement" as mandated by law. The equipment utilized by the vendor codes the inmate telephone numbers so the operator knows the call is from an inmate before responding to the call.

5. The Department of Corrections has a legitimate concern for maintaining the safety and security of its institutions, the staff, inmates and the general public.

6. In spite of the most careful of precautions, some inmates perpetuate criminal activity from within the institutions with one of the most prevalent criminal activities being fraud committed via telephone. The needs of the institutions are unique in that the ability to control the criminal activity of inmates is of the utmost importance.

7. The Department of Corrections believes that the Commission must make a distinction between public access pay telephones and controlled access ("0+") inmate telephone service. A controlled access telephone would be a telephone which is located in an area where the general public does not have access, such as a prison or correctional institution.

8. There is significant Federal precedent to support excluding telephone service from Billed Party Preference. Inmate telephone services were specifically excluded from The Telephone Operator Consumer Services Improvement Act of 1990 (TOCSIA) passed by Congress requiring that all payphones allow callers to be able to reach the long distance carrier of their choice by dialing the carriers access code. The Act also allows the Commission enforcement action against unjust or unreasonable rates.

9. The Commission should and must create an exemption from requiring "equal access" by controlled access inmate telephone services located in correctional institutions. Such an exemption is necessary for the safety and security of institutions, the staff, the inmates, and the public at large.

The Department of Corrections respectfully requests the Federal Communications Commission to give careful and faithful consideration to the comments contained herein, and to enact rules in accordance therewith.

Respectfully Submitted,



Margaret Vonheeder, Director
Division of Management and Budget
Department of Corrections
P.O. Box 11110
Olympia, Washington 98504-1110